

PLANNED DEVELOPMENT PERMIT

FILE NO.	PD13-044
LOCATION OF PROPERTY	Eastern terminus of Lexington Avenue, south of Great Oaks Parkway
ZONING DISTRICT	IP(PD) Planned Development (PDC04-031)
GENERAL PLAN DESIGNATION	Urban Village
PROPOSED USE	Planned Development Permit to allow up to 664 residences consisting of 143 single-family attached residences, and 521 multi-family attached residences on a 14.77 gross acre site
ENVIRONMENTAL STATUS	Use of Hitachi Campus and Mixed-use Transit Village Project EIR, Resolution No. 72772
OWNER	Bill King, Hitachi America, LTD 1000 Marina Blvd., Suite 600 Brisbane, CA. 94005
APPLICANT	Molly Maybrun City Ventures 444 Spear St., Suite 200 San Francisco, CA. 94105

FACTS

The Director of Planning, Building and Code Enforcement finds that the following are the relevant facts regarding this proposed project:

1. The subject site has a land use designation of Urban Village on the Envision San José 2040 General Plan Land Use/Transportation Diagram.
2. The currently vacant approximately 14.77 gross acre subject site (Lot 1 of Tract 9952) is within the approximately 332 acre Hitachi Campus and Mixed-use Transit Village (Hitachi Village), located in the IP(PD) Planned Development Zoning District.
3. The Hitachi Village Planned Development Rezoning (Ordinance No. 27491) was adopted on August 9, 2005 and allows up to 2,930 residential units; 460,000 square feet of commercial/retail; and 3,600,000 square feet of industrial.
4. On June 2, 2006 a Master Planned Development Permit (File No. PD05-087) and associated Planned Tentative Map (File No. PT05-108) were approved to allow the demolition of existing buildings, reconfiguration of existing lots, and construction of a new public street network to allow future construction of residential, commercial, and industrial uses.

5. This Planned Development Permit will allow construction of up to 664 residential units, public and private streets and community amenities on a portion of the Hitachi Village identified on the Zoning General Development Plan as Sub-area O-1.
6. The subject site is entirely within the Hitachi Village and is bordered on the north and west by Great Oaks Parkway, on the south by Lexington Avenue, and on the east by vacant land.
7. The environmental impacts of the Hitachi Village project were addressed by a Final EIR entitled, "Hitachi Campus and Mixed-Use Transit Village Project," and findings were adopted by City Council Resolution No. 72772 on June 21, 2005. Pursuant to Section 21081.6 of the California Environmental Quality Act (CEQA) a Mitigation Monitoring and Reporting Program (MMRP) was adopted that includes measures to mitigate or avoid significant effects on the environment.

FINDINGS

The Director of Planning, Building, and Code Enforcement concludes and finds, based on the analysis of the above facts with respect to the Planned Development Permit findings (Section 20.100.940), that:

1. The Planned Development Permit, as issued, furthers the policies of the General Plan, in that:
 - a. The project is consistent with the site's General Plan Land Use/Transportation Diagram designation of Urban Village, which supports a wide variety of commercial, residential, institutional, and other uses. The subject site is a residential/mixed-use component of the larger Hitachi Campus and Mixed-use Transit Village, which allows up to 792 residential units.
2. The Planned Development Permit, as issued, conforms in all respects to the Planned Development Zoning of the property in that:
 - a. The proposed project conforms to the approved General Development Plan.
3. The interrelationship between the orientation, location, mass and scale of building volumes, and elevations of proposed buildings, structures and other uses on-site are appropriate, compatible and aesthetically harmonious, in that:
 - a. The project conforms to the Residential Design Guidelines.
 - b. The site layout and architectural elements of the proposed buildings are integrated into a harmonious whole.
 - c. The proposed project is compatible in terms of architecture and scale with the anticipated development proximate to the site.
4. The environmental impacts of the project, including, but not limited to noise, vibration, dust, drainage, erosion, storm water runoff, and odor which, even if insignificant for purposes of the California Environmental Quality Act (CEQA), will not have an unacceptable negative effect on adjacent property or properties, in that:
 - a. Under the provisions of Section 15162 of the State Guidelines for implementation of the California Environmental Quality Act (CEQA), the City of San José has determined that the project is pursuant to or in furtherance of the Hitachi Campus and Mixed-use Transit Village Project Final Environmental Impact Report (EIR) and does not involve new significant effects beyond those analyzed in this Final EIR.

Finally, the Director of Planning, Building, and Code Enforcement concludes and finds, based on the analysis of the above facts, that the proposed project conforms in all respects to the provisions of Title 20 of the San José Municipal Code.

APPROVED SUBJECT TO THE FOLLOWING CONDITIONS:

1. **Acceptance of Permit.** Per Section 20.100.290(B), should the applicant fail to file a timely and valid appeal of this Permit within the applicable appeal period, such inaction by the applicant shall be deemed to constitute all of the following on behalf of the applicant:
 - a. Acceptance of the Permit by the applicant; and
 - b. Agreement by the applicant to be bound by, to comply with, and to do all things required of or by the applicant pursuant to all of the terms, provisions, and conditions of this permit or other approval and the provisions of Title 20 applicable to such Permit.
2. **Permit Expiration.** This Planned Development Permit shall automatically expire four years from and after the date of issuance hereof by said Director, if within such time period, the use has not commenced, pursuant to and in accordance with the provision of this Planned Development Permit. The date of issuance is the date this Permit is approved by the Director of Planning. However, the Director of Planning may approve a Permit Adjustment/Amendment to extend the validity of this Permit in accordance with Title 20. The Permit Adjustment/Amendment must be approved prior to the expiration of this Permit.
3. **Sewage Treatment Demand.** Chapter 15.12 of Title 15 of the San José Municipal Code requires that all land development approvals and applications for such approvals in the City of San José shall provide notice to the applicant for, or recipient of, such approval that no vested right to a Building Permit shall accrue as the result of the granting of such approval when and if the City Manager makes a determination that the cumulative sewage treatment demand of the San José-Santa Clara Water Pollution Control Plant represented by approved land uses in the area served by said Plant will cause the total sewage treatment demand to meet or exceed the capacity of San José-Santa Clara Water Pollution Control Plant to treat such sewage adequately and within the discharge standards imposed on the City by the State of California Regional Water Quality Control Board for the San Francisco Bay Region. Substantive conditions designed to decrease sanitary sewage associated with any land use approval may be imposed by the approval authority.
4. **Conformance to Plans.** Except as noted under condition numbers 5 and 6 below (“Permit Adjustments Required” and “Planned Development Permit Amendment Required”), development of the site shall conform to the approved Planned Development plans entitled, “Santa Teresa Transit Village, San José, California” dated last January 23, 2014, on file with the Department of Planning, Building and Code Enforcement, and to the San José Building Code (San José Municipal Code, Title 17, Chapter 17.04), with the exception of any subsequently approved changes.
5. **Permit Adjustments Required.** Unless otherwise noted below, within 60 days, the applicant shall secure and agree to implement a Permit Adjustment applications to the satisfaction of the Director of Planning which address the following:
 - a. Lighting Plan. A lighting plan for all on-site, exterior, unroofed lighting shall be submitted demonstrating conformance to the City’s Outdoor Lighting Policy and, if applicable, Interim Standards for Broad-Spectrum (White) Light for Private Development

(for use of LED lighting). Lighting shall be designed, controlled and maintained so that no light source is visible from outside of the property

- b. Fences, Walls, Project Signage, and Site Furniture. Provide details for all fences, walls project signage, and site furniture.
6. **Nuisance**. This use shall be operated in a manner which does not create a public or private nuisance. Any such nuisance must be abated immediately upon notice by the City.
7. **Conformance with Previously Approved Zoning**. All conditions of approval and required environmental mitigation measures from the previously approved Planned Development Zoning remain in effect.
8. **Conformance with Municipal Code**. No part of this approval shall be construed to permit a violation of any part of the San José Municipal Code.
9. **Discretionary Review**. The Director of Planning, Building and Code Enforcement maintains the right of discretionary review of requests to alter or amend structures, conditions, or restrictions of this Planned Development Permit incorporated by reference in this Permit in accordance with Chapter 20.100 of the San Jose Municipal Code.
10. **Public Works Clearance for Building Permit(s) or Map Approval**: Prior to the approval of the Tract or Parcel Map (if applicable) by the Director of Public Works, or the issuance of Building permits, whichever occurs first, the applicant will be required to have satisfied all of the following Public Works conditions. The applicant is strongly advised to apply for any necessary Public Works permits prior to applying for Building permits.
 - a. *Construction Agreement*: The public improvements conditioned as part of this permit require the execution of a Construction Agreement that guarantees the completion of the public improvements to the satisfaction of the Director of Public Works. This permit includes privately engineered plans, bonds, insurance, a completion deposit, and engineering and inspection fees.
 - b. *Transportation*: A traffic impact analysis has been completed for the Hitachi campus which includes this proposed project. The analysis identified several public improvements required for this project to address the traffic increases due to the overall development of the Hitachi campus. Hitachi is in the process of completing these improvements which will bring this proposed project into conformance with CSJ Transportation Level of Service Policy 5-3.
 - c. *Grading/Geology*:
 - i. A grading permit is required prior to the issuance of a Public Works Clearance.
 - ii. All on-site storm drainage conveyance facilities and earth retaining structures shall be reviewed and approved under Public Works grading and drainage permit prior to the issuance of Public Works Clearance. The drainage plan should include all underground pipes, building drains, area drains and inlets. The project shall provide storm drainage calculations that adhere to the 2010 California Plumbing Code or submit a stamped and signed alternate engineered design for Public Works discretionary approval

- iii. If the project proposes to haul more than 10,000 cubic yards of cut/fill to or from the project site, a haul route permit is required. Prior to issuance of a grading permit, contact the Department of Transportation at (408) 535-3850 for more information concerning the requirements for obtaining this permit.
 - iv. Because this project involves a land disturbance of one or more acres, the applicant is required to submit a Notice of Intent to the State Water Resources Control Board and to prepare a Storm Water Pollution Prevention Plan (SWPPP) for controlling storm water discharges associated with construction activity. Copies of these documents must be submitted to the City Project Engineer prior to issuance of a grading permit.
 - v. The Project site is within the State of California Seismic Hazard Zone. A geotechnical investigation report addressing the potential hazard of liquefaction must be submitted to, reviewed and approved by the City Geologist prior to issuance of a grading permit or Public Works Clearance. The investigation should be consistent with the guidelines published by the State of California (CGS Special Publication 117A) and the Southern California Earthquake Center (SCEC, 1999). A recommended depth of 50 feet should be explored and evaluated in the investigation.
- d. *Stormwater Runoff Pollution Control Measures:* This project must comply with the City's Post-Construction Urban Runoff Management Policy (Policy 6-29) which requires implementation of Best Management Practices (BMPs) that include site design measures, source controls, and stormwater treatment controls to minimize stormwater pollutant discharges. Post-construction treatment control measures, shown on the project's Stormwater Control Plan, shall meet the numeric sizing design criteria specified in City Policy 6-29.
- i. The project's Stormwater Control Plan and numeric sizing calculations have been reviewed and this project will be in conformance with City Policy 6-29.
 - ii. Final inspection and maintenance information on the post-construction treatment control measures must be submitted prior to issuance of a Public Works Clearance.
- e. *Sewage Fees:* In accordance with City Ordinance all storm sewer area fees, sanitary sewer connection fees, and sewage treatment plant connection fees, less previous credits, are due and payable.
- f. *Parks:* This residential project is in conformance with the requirements of the City's Parkland Dedication Ordinance (Chapter 19.38 of Title 19 of the San Jose Municipal Code) for the dedication of land for public park and/or recreational purposes per the Hitachi Parkland Agreement (PT05-108).
- g. *Assessments:* This project is located within the boundaries of Community Facilities District No. 14 which maintains public parks, storm detention basins, and street island landscaping in the Santa Teresa Transit Village area. Properties within the district pay for the maintenance through annual special taxes which are adjusted annually by the Consumer Price Index. The 2013-14 special tax rate for APN 706-07-006, referenced as Improvement Area No. 1, is \$ 83,513.80. Please note that the maintenance of any non-standard improvements along the extension of Lexington Avenue is not included in the existing special tax and would have to be allocated through the formation of a new zone within the existing district.

This project is also located within the boundaries of Maintenance District 9 which maintains the enhanced street island landscaping on Santa Teresa Blvd, Great Oaks Blvd, San Ignacio Ave and Cottle Rd. The benefiting properties within the district pay for the maintenance through annual assessments placed on the County property tax bills which are adjusted annually by the Consumer Price Index. The 2013-14 assessment for APN 706-07-006 is \$2,194.18. These assessments are calculated by acreage at approximately \$120 per acre. The current assessment is based on non-residential use and the assessment amount may change due to the residential development. Future year assessments will be apportioned based on the new use and will continue to be collected through the County property tax bills.

h. *Street Improvements:*

- i. Applicant shall be responsible to remove and replace curb, gutter, and sidewalk damaged during construction of the proposed project.
- ii. Remove and replace broken or uplifted curb, gutter, and sidewalk along project frontage.
- iii. Construct curb, gutter, and detached sidewalk comprising of 5' wide sidewalk and 4' wide parkstrip along Lexington Ave.
- iv. Proposed driveway width to be 26'.
- v. Street dedication is required for Lexington Ave.
- vi. Dedication and improvement of the public streets shall be to the satisfaction of the Director of Public Works.

i. *Sanitary:*

- i. A 21-inch public sanitary sewer main is required to be installed as part of this project to address future sanitary sewer needs in the area.
- ii. The upstream end of the proposed 21-inch sewer will connect to the existing sewer line on Miyuki Drive. The new line will be constructed along the same sewer alignment currently proposed on Charlotte Drive. The downstream connections will be made via the line on Raleigh Drive and finally to the 30-inch line on Cottle Road. The existing 12-inch and 15-inch sewer lines on both Raleigh Road and Charlotte Drive will be upsized to 21-inch sewer line.
- iii. The City of San José will reimburse the developer for the construction of the new 21-inch sanitary sewer. Details regarding the reimbursement will be finalized during the improvement plan stage.

j. *Electrical:*

- i. Existing electroliers along the project frontage will be evaluated at the public improvement stage and any street lighting requirements will be included on the public improvement plans.
- ii. Locate and protect existing electrical conduit in driveway and/or sidewalk construction.

k. *Street Trees:*

- i. The locations of the street trees will be determined at the street improvement stage. Contact the City Arborist at (408) 794-1901 for the designated street tree. Install street trees within public right-of-way along entire project street frontage per City standards; refer to the current "Guidelines for Planning, Design, and Construction of City Streetscape Projects". Street trees shall be installed in park strips. Obtain a DOT street tree planting permit for any proposed street tree plantings. Street trees shown on this permit are conceptual only.
- ii. Show all existing trees by species and diameter that are to be retained or removed. Obtain a street tree removal permit for any street trees that are over 6 feet in height that are proposed to be removed.

11. **Building Clearance for Issuing Permits.** Prior to the issuance of a Building Permit, the following requirements must be met to the satisfaction of the Chief Building Official:

- a. *Construction Plans.* This permit file number, PD13-044, shall be printed on all construction plans submitted to the Building Division.
- b. *Tentative Map.* Prior to the issuance of building permits for any of the for-sale units the developer shall secure approval of the associated Tentative Map (File No. PT14-007).
- c. *Permit Adjustment.* The final project design shall conform to the required Permit Adjustment per condition number 5 above.
- d. *Emergency Address Card.* The project developer shall file an Emergency Address Card, Form 200-14, with the City of San José Police Department.
- e. *Construction Plan Conformance.* A project construction plan conformance review by the Planning Division is required. Planning Division review for project conformance will begin with the initial plan check submittal to the Building Division. Prior to any building permit issuance, building permit plans shall conform to the approved Planning development permits and applicable conditions.

12. **Green Building.** The project shall comply with the provisions of Ordinance No. 28622 in the San Jose Municipal Code or subsequent ordinance for private-sector green building that is in effect at the time that a building permit application is submitted to the Department of Planning, Building and Code Enforcement Building Division. New residential projects with 10 or more units must receive the minimum green building certification of GreenPoint Rated 50 points or LEED Certified. A Green Building Deposit is required prior to issuance of building permit. The Green Building Deposit is refundable in accordance with the provisions of Ordinance No. 28622.

13. **Conformance to Hitachi Campus and Mixed-Use Transit Village MMRP.** This project shall conform to all applicable requirements of the Mitigation Monitoring and Reporting Program approved for this development. The following mitigation or avoidance measures are organized by impact category and (implementation oversight responsibility).

- a. Land Use - Construction Management Plan (Director of Planning). **Prior to issuance of a grading permit**, the applicant shall implement a Construction Management Plan, for all projects within 1,000 feet of occupied residential uses, approved by the Director of Planning, Building and Code Enforcement to minimize impacts on surrounding sensitive land uses, particularly the residences across Cottle Road and Monterey Highway, as well

as the future residences on the project site itself, to the fullest extent possible. The Construction Management Plan would include the following measures to minimize the impacts of construction upon adjacent land uses:

- i. Measures to control dust, noise and water pollution from construction activities.
 - ii. Measures to keep all streets and public ways clean of debris, dirt, dust and other undesirable outcomes of construction.
 - iii. Measures to control noise by limiting hours of operation of construction activities, avoiding more sensitive early morning and evening hours, and scheduling equipment selection.
 - iv. Selection of access routes for trucks delivering materials to and from the site that minimize neighborhood disturbance.
- b. Hydrology and Water Quality – Stormwater Pollution Prevention Plan (Director of Public Works). **Prior to the issuance of a grading permit** the applicant shall submit a Stormwater Pollution Prevention Plan (SWPPP) and submit a Notice of Intent (NOI) to the State of California Water Resources Quality Control Board to control the discharge of stormwater pollutants including sediments associated with construction activities. The applicant shall prepare an Erosion Control Plan if deemed necessary by the Director of Public Works and if adequate erosion control measures have not already been included in the SWPPP. The Erosion Control Plan may include BMPs as specified in the California Stormwater Best Management Practice Handbook for reducing impacts on the City's storm drainage system from construction activities. The SWPPP shall include control measures during the construction period for:
- i. Soil stabilization practices
 - ii. Sediment control practices
 - iii. Sediment tracking control practices
 - iv. Wind erosion control practices and
 - v. Non-stormwater management and waste management and disposal practices.
- c. Biological Resources
- i. *Tree Protection* (Director of Planning). The following tree protection measures shall be included in the project in order to protect trees to be retained during construction:

Preconstruction Treatments: The applicant shall retain a consultant arborist. The construction superintendent shall meet with the consulting arborist before beginning work to discuss work procedures and tree protection. Fence all trees to be retained to completely enclose the tree protection zone prior to demolition, grubbing or grading. Fences shall be as approved by the consulting arborist and are to remain until all grading and construction is completed. Prune trees to be preserved to clean the crown and to provide clearance. All pruning shall be completed or supervised by a Certified Arborist and adhere to the Best Management Practices for Pruning of the International Society of Arboriculture.

Recommendations for Tree Protection During Construction: No grading, construction, demolition or other work shall occur within the tree protection zone. Any modifications must be approved and monitored by the consulting arborist. Any

root pruning required for construction purposes shall receive the prior approval of, and be supervised by, the consulting arborist. If injury should occur to any tree during construction, it shall be evaluated as soon as possible by the consulting arborist so that appropriate treatments can be applied. No excess soil, chemicals, debris, equipment, or other materials shall be dumped or stored within the tree protection zone. Any additional tree pruning needed for clearance during construction must be performed or supervised by an arborist. As trees withdraw water from the soil, expansive soils may shrink within the root area. Therefore, foundations, footings and pavements on expansive soils near the trees shall be designed to withstand differential displacement.

A final report on tree protection measures, and the health of the protected trees, shall be submitted to the City's Environmental Principal Planner within 60 days after grading and construction have been completed.

- ii. *Preconstruction Survey for Burrowing Owls* (Director of Planning). In conformance with federal and state regulations protecting raptors against direct "take," preconstruction surveys for burrowing owls shall be conducted by a qualified ornithologist prior to any soil-altering activity or development occurring within the project area. The preconstruction surveys shall be conducted per CDFG guidelines (currently **no more than 30 days prior to the start of site grading**), regardless of time of year in which grading occurs. If no burrowing owls are found, then no further mitigation would be warranted. If breeding owls are located on or immediately adjacent to the site, a construction-free buffer zone around the active burrow must be established as determined by the ornithologist in consultation with CDFG. No activities that may disturb breeding owls, including grading or other construction work or evictions of owls, shall proceed. If preconstruction surveys determine that burrowing owls occupy the site, and avoiding development of occupied areas is not feasible, then the owls may be evicted outside of the breeding season, with the authorization of the California Department of Fish and Game (CDFG). The CDFG typically only allows eviction of Owls outside of the breeding season (only during the non-breeding season [September 1 – January 31]) by a qualified ornithologist, and generally requires habitat compensation on off-site mitigation lands. A final report of burrowing owls, including any protection measures, shall be submitted to the Director of Planning prior to start of grading.
- d. Cultural Resources – *Print on all Construction Documents, Contracts and Project Plans all Measures Related to Encountering any Archaeological or Cultural Materials* (Director of Planning). In the event any significant archaeological cultural materials are encountered, all construction within a radius of 50 feet of the find shall be halted, the Director of Planning shall be notified, and a qualified archaeologist shall examine the find and make appropriate recommendations regarding the significance of the find and the appropriate mitigation. The recommendations shall be implemented and could include collection, recordation, and analysis of any significant cultural materials. In the event that human remains and/or cultural materials are found, all project-related construction shall cease within a 50-foot radius of the find in order to proceed with the testing and mitigation measures required. Pursuant to Section 70.50.5 of the Health and Safety Code and Section 5097.94 of the Public Resources Code of the State of California: in the event of the discovery of human remains during construction, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to

overlie adjacent remains. The Santa Clara County Coroner shall be notified and shall make a determination as to whether the remains are Native American. If the Coroner determines that the remains are not subject to his authority, he shall notify the Native American Heritage Commission who shall attempt to identify descendants of the deceased Native American. If no satisfactory agreement can be reached as to the disposition of the remains pursuant to this State law, then the land owner shall re-inter the human remains and items associated with Native American burials on the property in a location not subject to further subsurface disturbance. A final report shall be submitted to the Director of Planning. This report shall contain a description of the mitigation program that was implemented and its results, including a description of the monitoring and testing program, a list of the resources found, a summary of the resources analysis methodology and conclusion, and a description of the disposition/curation of the resources. The report shall verify completion of the mitigation program to the satisfaction of the Director of Planning.

- e. Air Quality – *Print on all Construction Documents, Contracts, and Project Plans all Measures to Control Dust and Exhaust Emissions* (Director of Planning). The following provisions to control dust and exhaust emissions shall be followed **during all site excavation, grading and construction activities**:
- i. All construction vehicles shall be properly maintained and equipped with exhaust mufflers that meet State standards.
 - ii. Newly disturbed soil surfaces shall be watered down regularly by a water truck(s) or by other approved method maintained on site during all grading operations.
 - iii. Construction grading activity shall be discontinued in wind conditions that in the opinion of the Public Works Construction Inspector cause excessive neighborhood dust problems.
 - iv. Wash down of dirt and debris into storm drain systems shall not be allowed.
 - v. Construction activities shall be scheduled so that paving and foundation placement begin immediately upon completion of grading operation.
 - vi. All aggregate materials transported to and from the site shall be covered in accordance with Section 23114 of the California Vehicle Code during transit to and from the site.
 - vii. The BAAQMD has prepared a list of feasible construction dust control measures that can reduce construction impacts to a level of less than significant. The following construction practices required by the City of San José meet or exceed the BAAQMD feasible construction dust control measures and will be implemented during all phases of construction on the project site:
 - 1) Use dust-proof chutes for loading construction debris onto trucks.
 - 2) Water to control dust generation during demolition of structures and break-up of pavement.
 - 3) Water or cover stockpiles of debris, soil, sand or other materials that can be blown by the wind.
 - 4) Cover all trucks hauling demolition debris, soil, sand, and other loose materials or require all trucks to maintain at least two feet of freeboard.

- 5) Pave, apply water three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas and staging areas at construction sites.
 - 6) Sweep streets daily (preferably with water sweepers) all paved access road, parking areas and staging areas at construction site.
 - 7) Hydroseed or apply non-toxic soil stabilizers to inactive construction areas.
 - 8) Limit traffic speed on unpaved roads to 15 mph.
 - 9) Install sandbags or other erosion control measures to prevent silt runoff to public roadways.
 - 10) Replant vegetation in disturbed areas as quickly as possible.
- f. **Energy** – Implementation of the types of measures listed below, from which the Planning Director may select (implementation of all the measures is not required) would reduce adverse energy impacts of the project to less than significant levels.
- i. *Measures to Reduce Energy Consumption by Design* (Director of Planning). Install reflective, *EnergyStar*TM cool roofs. Cool roofs decrease roofing maintenance and replacement costs, improve building comfort, reduce impact on surrounding air temperatures, reduce peak electricity demand, and reduce waste stream of roofing debris.
 - ii. *Measures to Reduce Energy Consumption During Construction and Operation* (Director of Planning). As noted in Condition #12 above the project shall comply with the provisions of Ordinance No. 28622 in the San Jose Municipal Code or subsequent ordinance for private-sector green building that is in effect at the time that a building permit application is submitted to the Department of Planning, Building and Code Enforcement Building Division. New residential projects with 10 or more units must receive the minimum green building certification of GreenPoint Rated 50 points or LEED Certified. A Green Building Deposit is required prior to issuance of building permit. The Green Building Deposit is refundable in accordance with the provisions of Ordinance No. 28622.
14. **Recycling.** Scrap construction material should be recycled. Integrated Waste Management staff at (408) 535-8550 can provide assistance on how to recycle construction debris from the project, including information on available haulers and processors.
15. **Landscaping/Irrigation.** Planting and irrigation are to be provided and maintained as indicated on the landscaping/irrigation plans approved per Condition #28 below. Landscaped areas shall be maintained and watered and all dead plant material is to be removed and replaced. Permanent irrigation is to be installed in accordance with Part 4 of Chapter 15.10 of Title 15 of the San José Municipal Code, Water Efficient Landscape Standards for New and Rehabilitated Landscaping and the City of San José Landscape and Irrigation Guidelines. The applicant shall install an adequately sized irrigation distribution system with automatic controllers in all areas to be landscaped that conforms to the irrigation plans approved per Condition #28.
16. **Certification.** Pursuant to San José Municipal Code, Section 15.10.486, certificates of substantial completion for landscape and irrigation installation shall be completed by licensed or certified professionals and provided to the Department of Planning, Building and Code Enforcement prior to approval of the final inspection of the project .

17. **Fire Lanes.** Fire lanes, suitably designated "FIRE LANE - NO PARKING," shall be provided to the satisfaction of the Fire Chief.
18. **Fire Flow.** Required fire flow for the site shall be provided to the satisfaction of the Fire Chief.
19. **Visible Street Numbers.** Street numbers shall be visible day and night from the nearest street, either by means of illumination or by use of reflective materials.
20. **Colors and Materials.** All building colors and materials are to be those specified on the Approved Plan Set (see Permit Adjustment Required condition below).
21. **Motorcycle Parking.** This project shall conform to the motorcycle parking requirements identified on the Zoning Ordinance. The required spaces shall be provided through a combination of dedicated spaces as shown on the plans and the use of surplus vehicular parking spaces (to be used as vehicle or motorcycle parking spaces).
22. **Bicycle Parking.** This project shall conform to the bicycle parking requirements identified in the Zoning Ordinance. Bicycle parking facilities shall be located in a convenient, highly visible and well lighted area and within view of pedestrian traffic.
23. **Refuse.** All trash areas shall be effectively screened from view and covered and maintained in an orderly state to prevent water from entering into the garbage container. Trash areas shall be maintained in a manner to discourage illegal dumping.
24. **Anti-Graffiti.** The applicant shall remove all graffiti from buildings and wall surfaces within 48 hours of defacement.
25. **Anti Litter.** The site and surrounding area shall be maintained free of litter, refuse, and debris. Cleaning shall include keeping all publicly used areas free of litter, trash, cigarette butts and garbage.
26. **Sign Approval.** No signs are approved at this time. All proposed signs shall be subject to review and approval by the Director of Planning through a subsequent Sign Permit. Project related signage can be processed together with the items listed in the Permit Adjustment Required, Major Permit Adjustment 1 condition above.
27. **Building and Property Maintenance.** The property owner or management company shall maintain the property in good visual and functional condition. This shall include, but not be limited to all exterior elements of the buildings such as paint, roof, paving, signs, lighting and landscaping.
28. **Homeowner's Association.** A Homeowner's Association shall be established for the urban court portion of the project for maintenance of all common areas, including driveways/courtyards, landscaping and the community amenity area. A copy of the Development Permit, the accompanying Plan Set, any approved Amendments or Adjustments to the Development Permit, and a complete set of approved building and all improvement plans shall be provided to the Homeowner's Association by the applicant no later than 30 days upon completion of each phase.
29. **Tract Sales Office/Model Homes.** This permit does not include the approval of a tract sales office/model homes complex. Such use requires a Permit Adjustment approved by the Director of Planning.

- 30. Revocation, Suspension, Modification.** This Planned Development Permit may be revoked, suspended or modified by the Planning Director, or by the Planning Commission on appeal, at any time regardless of who is the owner of the subject property or who has the right to possession thereof or who is using the same at such time, whenever, after a noticed hearing in accordance with Part 3, Chapter 20.44, Title 20 of the San José Municipal Code it finds:
- a. A violation of any conditions of the Planned Development Permit was not abated, corrected or rectified within the time specified on the notice of violation; or
 - b. A violation of any City ordinance or State law was not abated, corrected or rectified within the time specified on the notice of violation; or
 - c. The use as presently conducted creates a nuisance.

APPROVED and issued on this 12^h day of March 2014.

David Sykes, Interim Director
Planning, Building and Code Enforcement

Deputy